



Report of the Professional Conduct Committee to the Council of the Pharmaceutical Society of Ireland in relation to a complaint made pursuant to Part 6 of the Pharmacy Act 2007.

Introduction - Summary Details

Registered Pharmacy:	Esterville Limited trading as Kelly's Pharmacy
Pharmacist Registration Number:	5891
Complaint Reference(s):	442.2018
Date of Inquiry:	16 December 2025
Public/Private Hearing:	Private
Meeting Format:	Hearing at PSI House, Fenian Street
Members of Committee:	Susan Ahern S.C., Chairperson Conor McCrystal MPSI Teresa Blake S.C.
Legal Assessor:	Lorna Lynch S.C
Appearances:	
For the Registrar:	Eoghan O'Sullivan, B.L Dena Keane, Solicitor, Fieldfisher LLP
For the Registrant:	Michael Lanigan, Solicitor, Poe Kiely Hogan Lanigan Solicitors
Registrant in attendance:	Yes
Other Attendees:	Andrew O'Sullivan, Director of Esterville Limited trading as Kelly's Pharmacy Deirdre O'Malley, D. O'Malley Stenography
In Attendance from the PSI:	Ciaran Lyng, Solicitor, PSI Olesea Bargan, PSI Legal Affairs Clara O'Reilly, PSI

1. Subject Matter of the Complaint and Proceedings

The complaint was received on 14 February 2018 from Dr Martin Blake Chief Veterinary Officer, Department of Agriculture in respect of Esterville Limited trading as Kelly's Pharmacy (5891) ("the Pharmacy"). The complaint was referred by the Preliminary Proceedings Committee (the "PPC") on 13 January 2022 to this Professional Conduct Committee ("PCC") on the grounds set out in Section 36(1)(a) and 36(1)(b) and 36(1)(c) of the Pharmacy Act 2007.

2. Allegations

The Allegations against the Pharmacy as set out in the Notice of Inquiry dated 10 September 2025 are:

AND FURTHER TAKE NOTICE that the following are the factual allegations to be considered at the Inquiry against Esterville Limited trading as Kelly's Pharmacy, a registered retail pharmacy business:

1. That Esterville Limited trading as Kelly's Pharmacy, being a Pharmacy Owner of Esterville Limited trading as Kelly's Pharmacy, Main Street, Miltown Malbay, Co. Clare (the "Pharmacy") was convicted in Ennis Circuit Court on 10 May 2021 of one or more the following offences, as referred to in the Order dated 10 May 2021, as specified in Appendix A:
 - a. Possession of an animal remedy the label or package leaflet of which has been altered or removed without the authorization contrary to Regulations 28(10) and 69 of the European Communities (Animal Remedies) (No.2) Regulations 2007, S.I. 786 of 2007 as amended (the "2007 Animal Remedies Regulations"); *and*
 - b. Unauthorised possession or control of an animal remedy designated veterinary practitioner only (VPO-1) or veterinary practitioner only (VPO) without the relevant veterinary prescription contrary to Regulations 38(4)(a) and 69 of the 2007 Animal Remedies Regulations; *and*
 - c. Sale or supply of an animal remedy designated prescription only without a veterinary prescription contrary to Regulations 28(4) and 69 of the 2007 Animal Remedies Regulations; *and*
 - d. Failing to keep sufficient records of sales and purchases contrary to Regulations 34 and 69 of the 2007 Animal Remedies Regulations; *and/or*

2. That Ms Marie Kelly MPSI, being an employee of the Pharmacy Owner and/or a Pharmacy Owner by reason of being a Director of Esterville Limited trading as Kelly's Pharmacy:
 - a. In or around 30 January 2013, had in her possession or under her control one or more of the animal remedies, as specified in Appendix B, in circumstances where the labels in respect of one or more of those animal remedies had been altered in that the batch number had been tampered with; *and/or*
 - b. In or around 12 February 2013, had in her possession or under her control one or more of the animal remedies, as specified in Appendix C, in circumstances where the labels in respect of one or more of those animal remedies had been altered in that the batch number had been tampered with; *and/or*
 - c. In or around 30 January 2013, had in her possession and/or under your control, one or more bottles of the designated Veterinary Practitioner Only ("VPO") animal remedy Norocaine 100ml and/or Norocaine 500ml, contrary to Regulation 38(4)(a) of the 2007 Animal Remedies Regulations; *and/or*
 - d. Failed to ensure that there existed on 11 February 2013 any or any adequate record relating to one or more of the animal remedies as specified in Appendix D, supplied to the Pharmacy between 01 January 2012 to 11 February 2013, contrary to Regulation 34 of the 2007 Animal Remedies Regulations, as amended; *and/or*
 - e. Was convicted at Ennis Circuit Court on 10 May 2021 of one or more of the following offences, as referred to in the Order dated 10 May 2021, a copy of which is contained in Appendix E:
 - i. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the possession of an animal remedy by the body corporate, the label or package leaflet of which has been altered or removed without the authorization contrary to Regulation 28(10), Regulation 67 and 69 of the 2007 Animal Remedies Regulations; *and*
 - ii. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the sale or supply

to a person of an animal remedy designated prescription only without a veterinary prescription by the body corporate, contrary to Regulation 28(4), Regulation 67 and 69 of the 2007 Animal Remedies Regulations;
and

- iii. As director, manager secretary or other officer of a body corporate, consenting or conniving or by neglect responsible for the failure to keep sufficient record of sales and purchases by the body corporate, contrary to Regulation 34, Regulation 67 and 69 of the 2007 Animal Remedies Regulations; *and/or*

- 3. Such further allegations as may be notified to you in advance of the Inquiry.

AND FURTHER by reason of Allegations 1(a) and/or 1(b) and/or 1(c) and/or 1(d) set out above, Esterville Limited trading as Kelly's Pharmacy, being the Pharmacy Owner, has been convicted of an offence, namely a breach of the 2007 Animal Remedies Regulations, such that were Esterville Limited trading as Kelly's Pharmacy to apply for registration as a pharmacist, the Council would be likely to refuse to register it; *and/or*

AND FURTHER by reason of Allegations 2(a) and/or 2(b) and/or 2(c) and/or 2(d), Ms Marie Kelly MPSI, being an employee of the Pharmacy Owner and/or a Pharmacy Owner, has committed misconduct, such that were she to apply for registration as a pharmacist, the Council would be likely to refuse to register her; *and/or*

AND FURTHER by reason of Allegations 2(e)(i) and/or 2(e)(ii) and/or 2(e)(iii), Ms Marie Kelly MPSI, being an employee of the Pharmacy Owner and/or a Pharmacy Owner, has been convicted of an offence, namely a breach of the 2007 Animal Remedies Regulations, such that were she to apply for registration as a pharmacist, the Council would be likely to refuse to register her; *and/or*

AND FURTHER, by reason of the conviction(s) of Esterville Limited trading as Kelly's Pharmacy and/or the conviction(s) and/or misconduct of Ms Marie Kelly MPSI as referred to at 1(a) and/or 1(b) and/or 1(c) and/or 1(d) and/or 2(a) and/or 2(b) and/or 2(c) and/or 2(d) and/or 2(e)(i) and/or 2(e)(ii) and/or 2(e)(iii) above, were Esterville Limited trading as Kelly's Pharmacy and/or Ms Marie Kelly MPSI to apply to register as a pharmacist the Council would be likely to refuse to register one or both of them,

3. Preliminary Application

At the outset of the Inquiry, the Chair referred to the linked complaints against Ms Marie Kelly (4955) and Esterville Limited trading as Kelly's Pharmacy (5891).

Submissions on behalf of Ms Kelly

3.1 Mr Lanigan stated that he wanted the Committee to consider dealing with the Inquiry by way of an undertaking. He confirmed that Mr Andrew O'Donoghue, a non-pharmacist director of the Pharmacy was present. He stated that the request was being made in the context of inordinate delay and what was an exceptional situation. In outlining the relevant chronology, Mr Lanigan stated that an inspection of the s Pharmacy took place on 30 January 2013 and that it is 2 months short of 13 years since that inspection took place.

3.2 Mr Lanigan stated that there were summonses made returnable for the District Court in early 2014 with 66 charges and the matter came before Ennis District Court on several occasions. He stated that from the outset it was indicated to the prosecution that pleas would be entered and when the matter came before the District Court in November 2014, it was indicated to the Judge that the matter would take two days to hear. The District Judge refused jurisdiction, but the Pharmacy did not seek to delay matters by seeking to judicially review that decision. Mr Lanigan stated that book of evidence was eventually served in March 2015 and the matter then appeared in the Ennis list for a period of 6 years. He stated that a new Judge was assigned in May 2021 and the prosecution indicated that certain pleas would be acceptable and a nolle prosequi would be entered on 59 counts. Mr Lanigan stated that at the time of sentencing, the Circuit Court Judge apologised to his clients for the delay which he referred to as "*unconscionable*". Mr Lanigan confirmed that the Company pleaded guilty to four counts and a fine of €6,250 was imposed.

3.3 Mr Lanigan stated that the complaint to the PSI was made in 2018 and that he engaged with the PSI and made a submission in May 2021.

3.4 Mr Lanigan submitted that to deal with the matter by way of undertaking would not cause any harm to the public and that having regard to the very particular and exceptional circumstances, it would not create a precedent for dealing with such cases.

Mr Lanigan submitted that the manner in which the Company dealt with the prosecution and entered a guilty plea showed insight and an acknowledgment of conduct that was wrong. He referred to an inspection of the pharmacy in April of 2025 and that only minor issues were identified which were remedied. He referred to 3 pharmacists being employed at the pharmacy and that matters are in good order. Mr Lanigan addressed the terms of the proposed undertaking.

Submissions on behalf of the Registrar

- 3.5 Mr O’Sullivan furnished a hard copy of the proposed terms of the undertaking to the Committee. He opened the papers in the Core Book and referred to the registration of the Pharmacy operating in County Clare since 2009 and details of the complaint submitted by Martin Blake together with the accompanying documentation.
- 3.6 Mr O’Sullivan submitted that the possession, sale and supply of animal remedies is strictly regulated by statute. He referred to Prescription Only Medicines (“POMs”) which can be sold by a pharmacist where there is a valid prescription from a vet and he referred to Veterinary Practitioner Only Medicines (“VPOs”) which can only be possessed and administered by a vet. Mr O’Sullivan outlined particular concerns with the inappropriate supply of antibiotics and referred to the strict set of requirements regarding labelling of animal remedies and records that must be kept by a pharmacist who is in possession of and selling or supplying animal remedies.
- 3.7 Mr O’Sullivan referred to the inspection of the Pharmacy on 30 January 2013 and the significant deficiencies that were identified in relation to animal remedies including the lack of prescriptions, altered labels and the presence of VPOs in the Pharmacy. There was another inspection in February 2013 and the discovery of additional animal remedies with altered labels which had been overlooked during the first inspection. Mr O’Sullivan went through extracts of the statement of Mr Louis Reardon (Veterinary Inspector with the Department of Agriculture) the statements by Ms Kelly during interview and the statement of Noel Kelly (Veterinary Inspector with the Department of Agriculture). Mr O’Sullivan briefly referred to the statement of Breda Meehan, Valerie Beatty, statements from customers, statements from wholesalers and technical documents from the State laboratory and certificates from the Irish Medicines Board. He also listed various documents seized by Mr Reardon.

- 3.8 Mr O’Sullivan referred to correspondence from Mr Lanigan after the complaint was lodged with the PSI in 2018 and which correspondence referred to the criminal prosecution and requested that the PPC would not deal with the matter until the criminal proceedings had concluded. He stated that correspondence issued from the PSI in June 2018 stating that the PPC would adjourn consideration of the matter until after the outcome of the criminal proceedings.
- 3.9 Mr O’Sullivan opened the Notice of Inquiry against the Pharmacy. He referred to the first allegation which concerns the four offences that the Pharmacy was convicted of. He stated that the second allegation against the Pharmacy is a mirror image of the allegations against Ms Kelly in the linked Inquiry.
- 3.10 Mr O’Sullivan stated that in the unusual and exceptional circumstances the Registrar was supporting the application for the matter to be dealt with by way of undertaking notwithstanding the very serious allegations. He referred to a period of 13 years since the acts/omissions giving rise to the complaint. Mr O’Sullivan referred to inspections of the Pharmacy with no serious issues identified regarding animal remedies which suggested that important lessons were learned and issues have been addressed and remedied.

4. Legal Assessor's Advice

- 4.1 Ms Lynch advised the Committee that the matter fell to be addressed under section 46 of the Pharmacy Act 2007. She noted that terms of the proposed undertaking had been circulated to the Committee and she referred to the Committee’s role under section 46 of the Act. Mr Lanigan confirmed that a non-pharmacist director of the Company was in a position to provide the undertakings on behalf of the Pharmacy and the Registrar was, in the particular circumstances of the case, indicating her support for the matter being dealt with by way of undertaking.
- 4.2 Ms Lynch advised the Committee that the legal impact of an undertaking being requested and given is that there would be no findings against the Pharmacy and the complaint is considered to be completed, which is expressly referred to in the 2007 Act. Ms Lynch advised the Committee members that they must come to their own independent decision on the question of an undertaking. She advised that the first step was that they must be

satisfied they were in a position to make an informed and reasoned decision in relation to the issue and that it was open to them to seek clarifications, if necessary. The next step to be taken by the Committee was to decide whether it was an appropriate case to request an undertaking and they must have particular regard to the question of public interest. Ms Lynch referred to the factors to be considered as part of the public interest.

- 4.3 The Committee were advised that they must have regard to the particular circumstances of the case. She referred to the issue of delay and advised that it was for the Committee to give appropriate weight to that factor in coming to a conclusion. Ms Lynch advised the Committee to have regard to other factors referred to in the submissions.
- 4.4 Finally, Ms Lynch advised the Committee that they should consider the specific terms of the proposed undertaking but it was for the Committee to decide on the appropriate wording and that what was urged upon them by Mr Lanigan or the fact that the Registrar was supportive of the undertaking was not determinative.

5. Decision of the Committee

- 5.1 The Committee carefully considered the preliminary application by Mr. Lanigan, the submissions in support of that application on behalf of the Pharmacy and the submissions made by Mr. O’Sullivan on behalf of the Registrar. The Committee had regard to the opening of the case by Mr. O’Sullivan, the documents and the submissions and decided that it had sufficient information and understood the nature of the case against the Pharmacy to enable the Committee to reach a decision about whether or not to request an undertaking.
- 5.2 The Committee considered together the undertakings proposed to be given by Ms Kelly and the Pharmacy and had regard to the following:-
- a) The Committee considered that the allegations set out in the Notices of Inquiry raise extremely serious matters.
 - b) The Committee viewed the delay since the events at issue as the most significant factor it has to consider at this stage. The Committee viewed the delay as inordinate and excessive in circumstances where the conduct, the subject matter of the Inquiry, took place almost 13 years ago.

- c) The Committee agreed that if the prolonged period of delay was not involved, this matter could not be appropriately addressed by way of an undertaking and that if all or some of the allegations were proven at Inquiry, a severe sanction could follow. The Committee agreed with the expert's conclusion that some of the misconduct as alleged was at the highest end of the scale.
- d) The Committee noted that there was a period of delay in the initial complaint being made and a completely unsatisfactory period of delay regarding the separate criminal process. While the PSI acceded to a request to pause the fitness to practice process in light of the ongoing criminal prosecution, that decision does not appear to have been reviewed until the conclusion of the criminal process some 3 years later.
- e) The Committee was cognisant of the fact that Ms. Kelly was subject to an ongoing criminal process and a fitness to practice process over a 13 year period which equates to 25% of Ms. Kelly's career as a registered pharmacist. During that passage of time, Ms. Kelly continued to work as a pharmacist and the Pharmacy operated without complaint and this must be considered together with Ms. Kelly's previous lengthy unblemished career and the Pharmacy's previous unblemished registration. The Committee considered the report of the PSI inspection carried out in April 2025 and which did not disclose any issues connected to the subject matter of the allegations.
- f) The Committee took into account the fact that Ms. Kelly and the Pharmacy entered guilty pleas in respect of criminal charges (reflected in Appendix D of the Notice of Inquiry) which displayed insight and acknowledgment. Significantly from the Committee's perspective, Ms. Kelly co-operated with the inspection, investigation and fitness to practice process.
- g) The Committee is satisfied that Ms. Kelly is very unlikely to repeat the conduct complained of. The Committee also took account of the fact that the Pharmacy no longer dispenses prescription only animal remedies or veterinary only animal remedies.
- h) The Committee had regard to the fact that there were no known adverse outcomes for any patient or animal and it was satisfied that there is no evidence of public protection risks on foot of Ms. Kelly's current practice as a pharmacist.

i) While not determinative, the Committee took account the fact that the Registrar is supporting the matter being dealt with by way of undertaking.

5.3 Overall and in circumstances where a combination of the factors set out above rendered this an exceptional case, the Committee decided that this was an appropriate case to request an undertaking pursuant to Section 46 of the Pharmacy Act 2007 as amended.

5.4 The Committee considered the wording of the undertakings proposed. In doing so it was conscious of exercising its function to protect the public and promote public confidence in the regulation of the pharmacists. The Committee was satisfied, subject to small amendments, that the undertakings offered were comprehensive, provided reassurance from a public protection standpoint and were proportionate in the circumstances.

5.5 Regarding the undertaking on behalf of the Pharmacy, the Committee was of the view that the combination of the undertaking not to repeat the conduct complained of, to include specific terms, together with consent to censure was required as being appropriate in the circumstances and sufficient to meet the seriousness of the issues raised.

6. Undertaking Provided by the Pharmacy

6.1 The following undertakings were provided on behalf of the Pharmacy:

1. Not to repeat the conduct complained of, specifically that Esterville Ltd trading as Kelly's Pharmacy (the "**Pharmacy**") will:
 - a. Ensure that all pharmacy staff, to include pharmacist / non-pharmacist staff members, are appropriately and/or adequately trained on the requirements for the sale and/or supply of animal remedies, to include the requirement that the labels of animal remedies are not altered in any way, the requirement for a valid veterinary prescription to authorise the purchase and/or supply of VPOs and the requirement for adequate record keeping, and keep an adequate record of the training undertaken; *and*
 - b. Ensure that the labels of all animal remedies in the possession and/or under the control of the Pharmacy are not altered in any way, and in particular that the manufacturer's batch number is not tampered with and is fully legible at all times; *and*

- c. Ensure that there are no designated Veterinary Practitioner Only animal remedies ("VPOs"), to include Norocaine and/or any other VPOs, in the possession and/or under the control of the Pharmacy contrary to Regulation 38(4)(a) of the European Communities (Animal Remedies) (No.2) Regulations 2007, as amended; *and*
- d. At all times, ensure that there is an adequate record of all purchases and sales of animal remedies (including quantities administered) in respect of each incoming and outgoing transaction at the Pharmacy, to include the date of the transaction, the identity of the animal remedy, the manufacturer's batch number, the name and address of the supplier or the consignee, the quantity received or supplied (including the details of the persons to whom it is supplied), and in the case of VPOs, the serial number of the veterinary prescription authorising the purchase; *and*

2. Consent to be censured by the Council of the PSI.

SIGNED: -  . _____

Susan Ahern SC,

Chairperson

DATE: 4 February 2026